

BC 8/15/12 10:14:51  
BC DK P BK 153 PG 631  
BC DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

This Instrument Prepared by  
and Upon Recordation Return to:  
LeeAnne Marshall Cox  
Burch, Porter & Johnson, PLLC  
130 North Court Avenue  
Memphis, Tennessee 38103  
901-524-5000

MS Bar No. 9605

**ASSIGNMENT AND ASSUMPTION OF LEASE**  
**AND SHORT FORM LEASE**

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (the "Assignment") is made and entered into so as to be effective as of the 8th day of August, 2012, by and from **WILLIAM B. CLARK, JR.** ("Assignor"), to **710 CHURCH ROAD, LLC**, a Delaware limited liability company ("Assignee").

W I T N E S E T H:

WHEREAS, Assignor has conveyed to Assignee all that tract or parcel of land more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, together with all improvements thereon owned by Assignor and all rights, easements and appurtenances thereto (collectively, the "Property") pursuant to that certain Quitclaim Deed (the "Deed") dated July 16, 2012, by and between Assignor as Seller and Assignee as Purchaser.

WHEREAS, in connection with such conveyance of the Property, Assignor and Assignee have agreed that Assignor shall transfer and assign to Assignee all right, title and interest of Assignor in and to that certain Lease Agreement between Memphis-Church Road, LLC, as Lessor, and Fred's Stores of Tennessee, Inc., as Lessee, dated August 24, 2011, as amended, a short form of which styled "Short Form Lease" has been recorded in the Office of the Chancery Clerk for DeSoto County, Mississippi in Book 147 Page 626, which Short Form Lease has been amended by Amendment to Short Form Lease recorded in the aforesaid said Clerk's Office in Book 152 Page 717 and which Short Form Lease, as amended, has been assigned to Assignor by that certain Assignment and Assumption of Lease and Short Form Lease recorded in the aforesaid said Clerk's Office in Book 152 Page 720 (collectively, the "Lease").

WHEREAS, Assignor and Assignee have further agreed that Assignee shall expressly assume all of the obligations of Assignor arising under the Lease from and after the effective date of this Assignment.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignees hereby agree as follows:

(a) Transfer and Assignment. Assignor hereby sells, transfers, assigns, delivers and conveys to Assignee all right, title and interest of Assignor in, to and under the Lease.

(b) Commissions. Assignor represents and warrants to Assignee that there are no real estate brokerage leasing commissions, finders fees or other similar fees payable in connection with the Lease (or any extensions or renewals thereof).

(c) Assumption of Obligations. Assignee hereby assumes and agrees to observe and perform all of the obligations and duties of Assignor under the Lease for the period of time from and after the effective date of this Assignment provided that Assignor shall remain responsible for, and Assignee is not assuming, any duties or obligations which relate to or arise in connection with (i) brokerage commissions now or hereafter due and payable with respect to the Lease (or any extensions or renewals thereof).

(d) Indemnity. Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations and liabilities of the Assignor under the Lease to be observed, performed or discharged with respect to the period prior to the effective date of this Assignment and for any obligations which relate to or arise in connection with any brokerage commissions now or hereafter due and payable with respect to the Lease (or any extensions or renewals thereof). Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the effective date of this Assignment, to observe, perform and discharge all covenants, obligations and liabilities under the Lease with respect to the period on and after the effective date of this Assignment.

(e) This instrument shall also constitute an assignment by Assignor to Assignee of all of Assignor's right, title and interest in, to and under that certain Short Form Lease recorded in the Office of the Chancery Clerk for DeSoto County, Mississippi in Book 147 Page 626, as amended and as assigned to Assignor by Memphis-Church Road, LLC, a Mississippi limited liability company, which Short Form Lease relates to the Lease. The assignment in this Section is on the same terms as contained herein as the assignment of the Lease.

(f) Governing Law. This Assignment shall be construed and enforced in accordance with and governed by the laws of the State of Mississippi.

(g) Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(h) Counterpart Signatures. This Assignment may be executed in any number of counterparts, which counterparts when considered together shall constitute a single, binding, valid and enforceable Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment the day and year first above written.

ASSIGNOR:

William B. Clark, Jr.  
William B. Clark, Jr.

ASSIGNEE:

710 Church Road, LLC, a Delaware limited liability company

By:

William B. Clark, Jr.

Name:

William B. Clark Jr

Title:

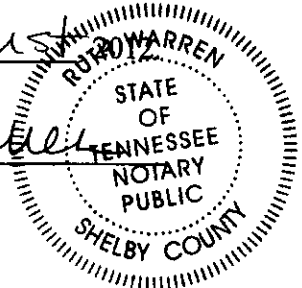
Member

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, a Notary Public in and for the County and State aforesaid, personally appeared William B. Clark Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be member of 710 Church Road, LLC, a Delaware limited liability company, the within named bargainor, and that he as such member, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as member.

Witness my hand and seal, at office, this the 8<sup>th</sup> day of August, 2012.

Pete Warren  
Notary Public



My Commission Expires:

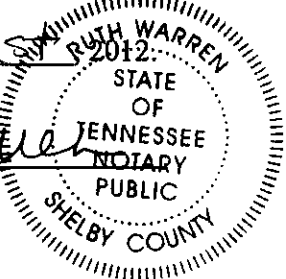
**MY COMMISSION EXPIRES  
JUNE 29, 2015**

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, a Notary Public in and for the County and State aforesaid, personally appeared William B. Clark, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be the within named bargainor, and that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, at office, this the 8<sup>th</sup> day of August, 2012.

Pete Warren  
Notary Public



My Commission Expires:

**MY COMMISSION EXPIRES  
JUNE 29, 2015**

EXHIBIT "A"

## Legal Description of Property

Lot 1 of the Fred's Subdivision as recorded in Plat Book 110, Page 4~~5~~ in the Desoto County Register's Office, said property being part of the Southwest  $\frac{1}{4}$  of Section 1, T2S, R8W in Southhaven, Desoto County, Mississippi and more particularly described as follows:

Commencing at a point in the centerline of Church Road a distance of 3565.85 West of a point accepted as the Southeast corner of said Section 1; thence N  $00^{\circ} 08' 59''$  E a distance of 53.00' to a  $\frac{1}{2}$ " re-bar in the North R.O.W. of said Church Road (R.O.W. varies); thence S  $89^{\circ} 58' 58''$  W along said North R.O.W. a distance of 189.34' to a  $\frac{1}{4}$ " re-bar, said point being in the line dividing Lots 1 and 2 of said Fred's Subdivision and the Point of Beginning of the following described real estate; thence continuing S  $89^{\circ} 58' 58''$  W along said North R.O.W. a distance of 225.68' to a  $\frac{1}{4}$ " re-bar in the West line of said Lot 1 and the East line of the Tipton William et al property (DB. 429, PG 184); thence N  $00^{\circ} 08' 59''$  E along said east line a distance of 327.00' to a found  $\frac{1}{4}$ " re-bar in the North line of said Lot 1 and the South line of the Oakd Hollow-NE Limited Partners property (DB. 510, PG 392); thence N  $89^{\circ} 58' 58''$  E along said South line a distance of 224.71' to a  $\frac{1}{2}$ " re-bar in the line dividing said Lots 1 and 2; thence S  $00^{\circ} 01' 02''$  E along said dividing line a distance of 327.00' to the Point of Beginning and containing 1.690 acres of land.

Legal description and bearings are taken from survey prepared by Edward T. Davis (LS 1888) dated November 22, 2011.